

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
Plaintiff,) Case No. 8:10CR201
vs.)
KATHLEEN FISCHER,)
Defendant.) ORDER

This case is before the court on the defendant's Application to Review Conditions of Release (#55). The defendant moves the court for an order to release the defendant to the Stephen Center's HERO Program for residential substance abuse treatment. After reviewing the July 1, 2010 initial appearance Pretrial Services report and other appropriate documents, I find the motion should be denied without hearing.

A review of the defendant's Pretrial Services report shows the defendant was previously treated for substance abuse at Catholic Charities in an in-patient setting and has also attended the Santa Monica halfway house. Additionally, the proposed placement fails to address the court's concerns involving her prior criminal record, including a 1995 conviction for a concealed weapon and a prior felony drug conviction. The 1996 felony drug conviction resulted in a report for offender supervision and treatment at the Santa Monica house. The proposed plan of release also fails to rebut the presumption of detention under 18 U.S.C. § 3142(e). Given the defendant's past criminal record, her substance abuse history, and her past opportunities to address those issues, I find that while it is clear that the defendant has a substance abuse problem, she has failed to seize past opportunities to address that issue.

IT IS ORDERED:

1. The defendant's Application to Review Conditions of Release (#55) is denied without hearing.
2. A party may object to a magistrate judge's order by filing an "Objection to Magistrate Judge's Order" within 14 days after being served with the order. The objecting party must comply with all requirements of NECrimR 59.2.

Dated this 7th day of October 2010.

BY THE COURT:

S/ F.A. Gossett, III
United States Magistrate Judge